

* E-filed on 10/27/06 *

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 INC.

**ORIGINAL
FILED**

OCT 26 2006

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 (San Jose Division)

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE

11 IN RE) Case No. MDL-1423 RMW
 12 CYGNUS TELECOMMUNICATIONS) AND ORDER
 13 TECHNOLOGY, LLC, PATENT) STIPULATION TO ALTER DATES
 14 LITIGATION)
 15)

16 Defendants, through Liaison Counsel, and Plaintiff seek to slightly alter the dates set
 17 forth in the court's Order dated August 21, 2006. All dates set prior to October 24, 2006, have
 18 been met, and the October 27 deadline for Plaintiff to submit its claim construction brief remains
 19 as set in the August 21 Order. Thus, there is no change in the due dates set on page 2 of the
 20 Order.

21 As to the table on page 3 of the August 21 Order, Defendants seek to separate out
 22 motions for summary judgment on invalidity from motions for summary judgment on
 23 infringement. Defendants propose to submit three joint motions on invalidity on October 27,
 24 2006, according to the first date on page 3. One motion will relate to issues under 35 U.S.C.
 25 §102; a second will relate to issues under §103; and a third will relate to issues under §112. The
 26 preliminary invalidity contentions of Defendants raised over forty different invalidity issues.
 27 Cygnus attempted to remove the issues raised in the two Reexamination proceedings from
 28

1 consideration at the November 20 hearing, but that motion was denied without prejudice. In
 2 order to allow Plaintiff to see whether any of the forty-odd defenses may be dropped, the parties
 3 stipulate that Plaintiff shall have until November 3, 2006, to file its motions regarding validity.
 4 This stipulation balances the court's provision of a week after Plaintiff's claim construction brief
 5 for Defendants to submit a claim construction brief in the second box of page 3 of the order.
 6 Plaintiff will file its oppositions to the three invalidity briefs on November 10, rather than on
 7 November 3 as specified in the table on page 3 of the Order. Also on November 10, Plaintiff
 8 will reply to the claim construction opposition that Defendants filed on November 3.

9 Using the tabular format of the August 21 Order, the parties stipulate to the following:
 10

11	October 27, 2006	Plaintiff's claim construction brief
12	October 27, 2006	Defendants' summary judgment motions on invalidity
13	November 3, 2006	Defendants' claim construction brief
14	November 3, 2006	Plaintiff's opposition to invalidity motions
15	November 3, 2006	Defendants' summary judgment motions on noninfringement
16	November 10, 2006	Plaintiff's reply claim construction brief
17	November 10, 2006	Plaintiff's opposition to infringement motions
18	November 10, 2006	Defendants' reply on invalidity

19 None of the changes affect the hearing date of November 20, 2006.
 20

21 STIPULATED ON BEHALF OF PLAINTIFF:
 22

23 October 25, 2006

24 
 25 John P. Sutton
 26 Attorney for Plaintiff
 27 CYGNUS TELECOMMUNICATIONS
 TECHNOLOGY, LLC.
 28

10/27/06
Date


Kieran Fallon
Liaison Counsel and
Attorney for Interactive Media Technologies, Inc.

THE PARTIES HAVING STIPULATED, IT IS SO ORDERED.

The courthouse will be closed on Nov. 10, 2006 for Veterans' Day. The court's Oct. 26, 2006 order is vacated. If defendants file a motion to dismiss for lack of subject-matter jurisdiction by November 3, 2006, any opposition shall be due Nov. 9, any reply shall be due Nov. 12, and a hearing shall be held on Nov. 17, 2006.

10/27/06
Date


Ronald M. Whyte
United States District Judge